

Message Text

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43

ACTION EB-11

INFO OCT-01 ARA-16 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

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R 101255Z JUN 74

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 438

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EO 11652: N/A

TAGS: ETRN, PE

SUBJECT: CIVAIR - BRANIFF SCHEDULE CHANGES

REF: STATE 119985, LIMA A-86

1. PFLUKER AND DE SOLAR OF BRANIFF CALLED ON AMBASSADOR JUNE 5, PRIOR TO EMBASSY RECEIPT REFTEL. THEY COVERED MUCH OF SAME GROUND AS REPORTED REFTEL AND MADE FOLLOWING ADDITIONAL POINTS WHICH MAY BE OF INTEREST TO DEPARTMENT AS BACKGROUND INFORMATION.

A. BASIC PROBLEM IS THAT CAUSED BY RECENT CHANGE IN PERU'S CIVIL AVIATION LAW (LIMA A86 AND PREVIOUS), IN PARTICULAR THAT CREATED BY PERU'S INSISTENCE ON "REAL RECIPROCITY". (UNDER THIS DOCTRINE, PERU WOULD IMPOSE 20 PERCENT SURCHARGE ON FIFTH FREEDOM-- AND PERHAPS EVENTUALLY FOURTH FREEDOM -- TRAFFIC FLOWN BY CARRIERS ON FREQUENCIES IN EXCESS OF THOSE FLOWN BY A PERUVIAN CARRIER ON ANY GIVEN ROUTE.) PFLUKER AND DEL SOLAR THOUGHT THEY HAD FOUND SOLUTION IN ASSISTANCE BRANIFF WOULD SUPPLY TO AERO- PERU TO ENABLE IT TO BEGIN FLIGHTS TO MIAMI BY JULY 28. SUCH ASSISTANCE WOULD INCLUDE MAINTENANCE, GROUND HANDLING, TRAINING FOR PILOTS, MECHANICS, AND AIR CREWS, ETC. THESE SERVICES ARE EMBODIED IN EIGHT SEPARATE CONTRACTS, THREE OF WHICH HAVE ALREADY BEEN CONCLUDED, AND WILL BE SUPPLIED TO AEROPERU ON A COMMERCIAL BASIS. BRANIFF'S INTENTION

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HAD BEEN TO NEGOTIATE DISCOUNTS FOR SERVICES PROVIDED UNDER

THESE CONTRACTS WITH AEROPERU WHICH THE GOP WOULD ACCEPT IN LIEU OF SURCHARGES ON FIFTH FREEDOM TRAFFIC. IN THIS WAY, BRANIFF BELIEVED, PRINCIPLE OF BILATERAL WOULD BE PRESERVED WHILE GOP WOULD RECEIVE COMPENSATION TO WHICH IT BELIEVES ITSELF ENTITLED. DEL SOLAR SAID THAT DIRECTOR GENERAL DE TRANSPORTE AEREO (DGTA) BERCHEMEYER HAD AGREED TO SUCH A TRADE-OFF BEFORE HE DEPARTED THE COUNTRY IN THE LATTER PART OF MAY. BRANIFF HAD ALSO REQUESTED, AND BERCHEMEYER ACCEPTED IN PRINCIPLE, NINETY DAY DELAY IN APPLICATION OF SURCHARGE, DURING WHICH NEGOTIATION COULD TAKE PLACE, IT BEING UNDERSTOOD THAT WHATEVER WAS AGREED WOULD APPLY RETRO-ACTIVELY.

B. DEL SOLAR SAID THAT BEFORE HIS DEPARTURE, BERCHEMEYER DESIGNATED COMMITTEE TO CARRY ON NEGOTIATIONS WITH BRANIFF. THIS COMMITTEE HAS NOW REVERSED EARLIER POSITIONS AND IS TAKING HARD LINE ON RECIPROCITY. IT INSISTS THAT BRANIFF AGREE TO PAYMENT OF SURCHARGES IN RETURN FOR REISSUANCE OF OPERATING PERMIT AND REFUSES TO AGREE TO NINETY DAY POSTPONEMENT.

C. MOST OTHER FOREIGN CARRIERS HAVE AGREED TO PAY SURCHARGE (AND PRESUMABLY HAVE ALSO ASSENTED TO OTHER REQUIREMENTS SUCH AS FILING SCHEDULE CHANGES). AEROFLOT HAS IN FACT AGREED TO 7 PERCENT SURCHARGE ON BOTH FOURTH AND FIFTH FREEDOM TRAFFIC. HOLDOUTS WERE BRANIFF, CANADIAN PACIFIC, AND LUFTHANSA. GERMAN AMBASSADOR WAS TO HAVE DELIVERED A NOTE ON THIS SUBJET JUNE 6. (GERMAN EMBASSY SUBSEQUENTLY CONFIRMED THAT NOTE HAD BEEN DELIVERED BUT REPRESENTATIVE SAID GERMANS HAD BASED CASE ON FACT THAT SINCE LUFTHANSA HAD TAKEN NO ACTION TO CAUSE ITS OPERATING PERMIT TO BE CANCELLED AND SINCE SUCH CANCELLATION WOULD BE CONTRARY TO BILATERAL, IT WOULD REGARD PERMIT AS CONTINUING TO BE VALID UNTIL ITS DECEMBER 1975 EXPIRATION DATE AND THAT IN MEANTIME LUFTHANSA NEED NOT OBSERVE THE NEW REQUIREMENTS.)

D. DEL SOLAR'S UNDERSTANDING OF AEROPERU'S STATEMENT AT MAY 20 HEARING IS THAT FIFTH FREEDOM TAX WILL BE DISCONTINUED ONLY ON THOSE BRANIFF FREQUENCIES WHICH PAIR WITH LIMITED OFFICIAL USE

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AEROPERU'S FREQUENCIES. HE BELIEVES THAT TAX WILL BE RETAINED ON OTHER, NONMATCHING BRANIFF FREQUENCIES.

2. EMBASSY WILL DISCUSS MATTER WITH BOTH MINISTRY FOREIGN RELATIONS AND DGTA ON URGENT BASIS.
DEAN

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